IN THE HIGH COURT OF JUDICATURE
FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

O R D E R

S.B. CIVIL WRIT PETITION NO.3260/2006.

Firm M/s.Vinayak Overseas
Vs.
Additional District Judge (Fast Track) No.2, Ajmer
Camp Beawar & Ors.

Date of order : 28/11/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri K.K. Sahu for the petitioner.
Shri Rajesh Mootha for the respondents.

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BY THE COURT:-

Heard learned counsel for the parties.

2) The petitioner has challenged the order dated 1/4/2006 whereby his application for sending the document Exh.6 dated 9/3/2001 for hand writing examination under Section 45 of the Indian Evidence Act, 1872 has been rejected.

3) Learned counsel for the respondents has argued that the petitioner has disputed his signatures on the documents and earlier when he filed a similar application on 17/12/2005, the same

was disposed of with the observation that the same shall be considered after the statement of PW-2. Statement of PW-2 who is partner of the petitioner-firm was recorded wherein he reiterated his earlier statement. It was argued that even according to the order passed by the trial court, the written-statement dated 22/11/2003 and affidavit filed along with the written-statement, compromise Exh.22, Vakalatnama which is marked “A”, partnership deed, the affidavit filed by the petitioner before the court, the papers of the cross examination bearing the same signatures as was on the Exh.6, therefore, there was no need to send the Exh.6 to the hand writing expert for examination.

4) Learned counsel for the petitioner argued that the application of the petitioner could not be rejected by the trial court merely on the premise that the court itself tallied the signatures on the basis of different documents referred to above.

5) Learned counsel for the respondents has opposed the writ petition and argued that there is contradiction in the statements of the petitioner. On the one hand, he himself admitted that the

signatures on Exh.5 is his signatures but, on the other hand he pleaded that the documents Exh.5 and Exh.6 both are fake frivolous documents. In fact, he was deliberately making different signatures on different documents.

6) Having heard learned counsel for the parties and perused the record forming part of the writ petition, I find that even as per the observation made by the trial court in para 4 of the impugned-order, it would seen that signatures of the petitioner on documents Exh.2A were different from the signatures depicted on Exh.5 & Exh.6 therefore, it appears that petitioners depicts his signatures differently in different circumstances. Even though the petitioner has now admitted in his written-statement admitting his signatures on Exh.6, the statement tendered before the court. In the written-statement, he has denied his signatures on that document and if the signatures of the petitioner on Exh.6 are different then, his signatures on various other documents is also different which necessitates obtaining the report of hand writing expert.

In the result, the writ petition is allowed and the impugned order dated 1/4/2006 (Annexure-4) is quashed and set-aside and application of the petitioner stands allowed. The learned trial court shall obtain report of the Hand Writing Expert.

(MOHAMMAD RAFIQ), J.

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